

## REMARKS

The claims remaining in the present application are Claims 1-4, 6-13 and 14. Claim 5 has been canceled without prejudice. Claims 1-4 and 6-12 are amended herein. Claim 14 is presented here for the first time. No new matter has been added as a result of these amendments.

## CLAIM REJECTIONS

### 35 U.S.C. §102 (e)

Claims 1-2, 4, 6-8 and 11-13 are rejected under 35 U.S.C. §102 (e) as being anticipated by Roberts et al. (hereinafter "Roberts"), US 2002/0110149. Claims 1, 4, 6, 7, 11 and 13 are amended herein. Applicants respectfully request that the Examiner consider amended claims 1-2, 4, 6-8 and 11-13.

As for claims 1-2, 4, 6-8 and 11-12, claim 1 states:

A client-based method for managing transfer of a file having data from a networked device to a client system having a network connection, comprising the steps of:

- (a) determining a type of the network connection;
- (b) automatically retrieving a threshold noise level corresponding to the network connection type;
- (c) determining a utilization rate of the network connection;
- (d) determining whether the utilization rate of the network connection is below the threshold noise level;
- (e) if the utilization rate is below the threshold level, receiving data from the networked device using a method comprising:
  - (i) determining whether to adjust an amount of data received in a current iteration;
  - (ii) if step (i) determines to adjust the amount of data received, adjusting the amount of data to receive according to the type of network connection;

- (iii) retrieving an increased amount of data; and
- (f) if the utilization rate is above the threshold level, pausing a predetermined amount of time before proceeding; and
- (g) repeating steps (c)-(f) until all data in the file is received.

Roberts fails to teach or suggest "automatically retrieving a threshold noise level corresponding to the network connection type," as recited in Claim 1. In contrast, in paragraph [0056], Roberts teaches that "a threshold level is calculated as a function of the maximum [detected level of actual usage]..." and that "a new threshold level is calculated each time a new maximum [level of actual usage] is detected."

The method recited in claim 1 pertains to one threshold level associated with the network type. The threshold level is automatically determined upon detection of the type of network connection. The threshold level of claim 1 is not recalculated each time step (c), "determining a utilization rate of the network connection," is performed, as taught by Roberts.

Applicants respectfully assert that the basis for rejecting claim 1 under 35 U.S.C. § 102(e) as being anticipated by Roberts is traversed. Claims 2, 4, 6-8 and 12 are dependent on Claim 1 and recite further limitations. Applicants respectfully assert that the basis for rejecting claims 2, 4, 6-8 and 12 under 35 U.S.C. § 102(e) as being anticipated by Roberts is traversed.

Ernst (hereinafter "Ernst;" US patent no. 5,572,674) teaches a computer program for dynamically adjusting systems network architecture parameters. The system taught by Ernst is capable of "collecting statistics" and "exchanging backchannel messages" with computer programs on adjacent computers. Ernst fails to teach or suggest the method recited in Claims 1, 2, 4, 6-8 and 11-12.

Claim 13 is rejected under 35 U.S.C. §102 (e) as being anticipated by Ernst.

Claim 13 states:

A system for managing the transfer of a file having data from a networked device to a client system, comprising:

means for determining a type of network connection of the client system;

means for defining a threshold parameter and a buffer parameter according to the type of network connection;

means for receiving an amount of data determined by the buffer parameter when the utilization of the network connection is below the threshold parameter and adjusting the buffer parameter according to the monitoring of the utilization of the network connection; and

means for suspending the receiving of data when utilization of the network connection is not below the threshold parameter and monitoring the utilization of the network connection.

Ernst, in col. 8, lines 5-20, teaches a system wherein if a Synchronous Data Link Control (SDLC) is connected to a plurality of Physical Unit (PU) connections, the network can be "timeshared" among the different PU's. For example, Ernst teaches a maximum number of messages that can be sent to a given PU before message traffic to that PU is suspended and the system begins to send messages to another PU. Ernst fails to teach or suggest a system for managing the transfer of a file having data from a networked device to a client system, comprising "means for determining a type of network connection of the client system," "means for defining a threshold parameter and a buffer parameter according to the type of network connection," and "means for receiving an amount of data determined by the buffer parameter when the utilization of the network connection is below the threshold parameter and adjusting the buffer parameter according to the monitoring of the utilization of the network connection," as recited in claim 13. Applicants respectfully submit that the basis for rejecting claim 13 under 35 U.S.C. § 102(e) as being anticipated by Ernst is traversed.

### 35 U.S.C. 103 (a) Rejection

Claims 3 and 9-10 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Roberts in view of 'Official Notice.'

#### Claim 3

The method recited in claim 3 is the method of claim 1, "further comprising the step of defining a size of a receiving buffer according to the type of network connection." In contrast, Roberts teaches, in paragraph [0014], a "transfer block size calculating component which calculates the block size to be transferred based on utilization as a function of the average level of utilization identified..."

The size of the receiving buffer rendered by the method recited in claim 3 would not necessarily be equal to the size of a receiving buffer calculated by the method taught by Roberts. There is no motivation to combine the method recited in claim 3 with the method taught by Roberts. Regarding Official Notice, Applicants respectfully traverse Examiner's assertion that the method recited in claim 3 is capable of instant and unquestionable demonstration as being well-known. Regarding Ernst, there is no motivation to combine the method recited in claim 3 with the system taught by Ernst.

#### Claim 9

Claim 9 recites the method of claim 8, "wherein the step of adjusting a buffer parameter that determines how many times a receiving buffer is read in the current iteration includes incrementing the buffer parameter when a previous iteration resulted in data being received." In contrast, in paragraph [0066], Roberts teaches a method for monitoring "the level of actual network utilization" and calculating "the size of a block of

data that can be transferred within a predetermined interval” based on the level of actual utilization. In paragraph [0084], Roberts teaches a method of adjusting the block size dynamically as the level of utilization changes. Paragraphs [0073]-[0082] detail an algorithm for determining block size.

The number of times a receiving buffer is read, as determined by the method recited in claim 9 would not necessarily produce equal results as the block size calculated by the dynamic method taught by Roberts. There is no motivation to combine the method recited in claim 9 with the method taught by Roberts. Regarding Official Notice, Applicants respectfully traverse Examiner’s assertion that the method recited in claim 9 is capable of instant and unquestionable demonstration as being well-known. Regarding Ernst, there is no motivation to combine the method recited in claim 9 with the system taught by Ernst.

#### Claim 10

Claim 10 recites the method of claim 9, “wherein the buffer is incremented until a predetermined maximum buffer value is achieved.” In contrast, Roberts teaches a method of dynamically adjusting a sample interval to keep a corresponding block size below a maximum value (paragraph [0085]). There is no motivation to combine the method recited in claim 10 with the method taught by Roberts. Regarding Official Notice, Applicants respectfully traverse Examiner’s assertion that the method recited in claim 10 is capable of instant and unquestionable demonstration as being well-known. Regarding Ernst, there is no motivation to combine the method recited in claim 10 with the system taught by Ernst. Applicants respectfully assert that the basis for rejecting claim 10 under 35 U.S.C. 103 (a) is traversed.

## CONCLUSIONS

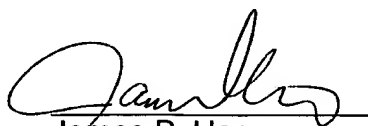
In light of the above listed amendments and remarks, reconsideration of rejected Claims 1-4, and 6-13 is requested. Claim 5 has been canceled without prejudice. Claim 14 is presented here for the first time. Based on the amendments and arguments presented above, it is respectfully submitted that Claims 1-4 and 6-14 overcome the rejections of record. Therefore, allowance of Claims 1-4 and 6-14 is earnestly solicited.

The Applicants have reviewed the references cited but not relied upon. The Applicants did not find these references to show or suggest the present claimed invention: U.S. Patent Nos. 6,230,220; 2003/0095302; 2002/0052967; 5,909,442; 2002/0107667; 6,682,387; 6,442,138; 6,690,646; 6,680,910; and 2002/0110149.

Should the Examiner have a question regarding the instant response, the Applicants invite the Examiner to contact the Applicants' undersigned representative at the below listed telephone number.

Respectfully submitted,  
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